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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,188	11/11/2003	Kota Ishibiki	17235	6116
23389 7590 05/14/2008 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER				
CONLEY, SEAN EVERETT				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
05/14/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/706,188

**Applicant(s)**

ISHIBIKI, KOTA

**Examiner**

SEAN E. CONLEY

**Art Unit**

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 March 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.  
4a) Of the above claim(s) 6-23 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-5 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)  
3) ☒ Information Disclosure Statement(s) (PTO/SE-08)  
Paper No(s)/Mail Date 2/14/2008  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 21, 2008 has been entered. Claims 1-23 are pending with claims 6-23 remaining withdrawn from consideration for being directed to a non-elected invention.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogawa in view of .

Regarding claims 1 and 2, Ogawa et al. disclose a medical equipment autoclaving system comprising a communication vent (211) through which the inside of medical equipment (endoscope) and the outside thereof communicate with each other, a pressure adjusting means that includes a check valve (202) which opens only when the pressure in the inside of the medical equipment which communicates with the outside thereof through the communication vent gets higher than the pressure in the outside thereof by a certain value or more (see paragraphs [0028], [0031], [0050]-[0059]), and an autoclave that sterilizes the medical equipment, wherein the autoclave is capable of executing the following process (see paragraphs [0034]-[0059]): a first depressurization process including a step of depressurizing the inside of a chamber included in the autoclave; an autoclaving process which succeeds the first depressurization process and in which the chamber is pressurized; and a second depressurization process succeeding the autoclaving process and including a step of depressurizing the chamber, wherein: the second depressurization process includes a plurality of depressurization process, the pressure of at least one of which being lower than that of any other of the plurality of depressurization processes performed before it.

However, Ogawa et al. fails to specifically disclose an autoclave with a control unit capable of controlling the vacuum and autoclaving processes.

Palmer's discloses an autoclave (9) for sterilizing medical instruments wherein the autoclave utilizes a control unit (central unit 26) having a (micro processor 25) to

control the sterilization process. The control unit (central unit 26) controls the valves (23) which operate the inlet and outlet of different fluids, such as water, pressurized air, steam, cleaning agents, vacuum, and lubricants (see col. 3, lines 44-55; see col. 4, lines 27-33; see figures 1, 3, 4; see col. 2, lines 31-31-37). Inside the central unit 26 is a micro processor 25 which controls the sterilization procedure in accordance with a chosen program and further, the micro processor 25 may be a full scale computer (see col. 3, lines 55-60; see col. 4, lines 27-33). As such, the control unit of Palmers is capable of being configured to carry out depressurization (vacuum) processes and autoclaving (steam sterilization) processes in the configuration recited in applicants claims.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Ogawa et al. and include the control unit of Palmers, which is capable of being configured to control vacuum and autoclaving processes as claimed by the applicant, in order to provide an automated sterilization process with a controller that controls all phases required for having a medical instrument sterilized thus decreasing the chances for human error in the process.

Regarding claim 3, Ogawa et al. disclose medical equipment (endoscope) that includes an armor member (sheath) designed to shut out the inside of the medical equipment (endoscope) from the outside thereof and made of a material having softness (see paragraph [0024]-[0027], [0032]).

Regarding claim 4, Ogawa et al. disclose an endoscope having a bending section (9) that is formed adjacently to the distal section of an insertion unit (2), which is inserted into an object, so that it can be bent, and an armor member (sheath) used to sheathe the bending section and made of a material having softness (flexible) (see paragraph [0024].

Regarding claim 5, Ogawa et al. disclose an endoscope having a communication vent (211) formed so that the communication vent (211) can be forcibly unblocked after the completion of the second depressurization process (see paragraphs [0050]-[0053], [0060]).

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

The previously cited reference to Ogawa et al. has been relied upon to teach the same features recited in the previous office action mailed on December 21, 2007. The newly cited reference of Palmers (6,251,345 B1) has been relied upon in the above rejection to teach the new limitation of a control unit capable of carrying out autoclaving and various depressurization processes.

### ***Conclusion***

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E. Conley whose telephone number is 571-272-8414. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 12, 2008

/Sean E Conley/  
Primary Examiner, Art Unit 1797